

WAS THE SIMLA CONVENTION NOT SIGNED ?

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I

Dr. Alastair Lamb, the brilliant young scholar, who has brought to light much about the conflict of three empires (Manchu, Romanov and British) in Asia, has raised an issue over the signature on the Simla Convention. In his Chatham House Essay entitled *The China-India Border* (Oxford University Press, 1964), Lamb says that the parties meeting at Simla did not sign the Convention, that the Convention was "initialed" (the spelling "initialed" is Lamb's and has a significance no doubt) and that the "initialed" document cannot have the legality of an accepted agreement. In the words of Lamb "Initialing can imply no more than that the delegates have accepted the initialed text as the valid text arising from the negotiations. To become binding the agreement would have to be signed and, probably, ratified" (p.51, fn.15).

This note will only present certain indisputable facts, facts which bear out whether the Convention was the finally agreed document or not. No attempt is made here to go beyond published state papers and such records.

II

The Chinese Plenipotentiary eventually left the Conference and the Chinese Government did not accept the Convention. The Plenipotentiaries of Britain and Tibet signed a declaration to the effect that the Convention was to be binding on the Governments of Britain and Tibet and that in the absence of China's ratification China was not entitled to any privileges accruing from the Convention (Aitchison: *Treaties, Engagements*, Vol XIV, Calcutta 1929, pp. 21 & 38).

With the Anglo-Tibetan Declaration and its subsequent communication to Russia—the other party in the Great Game in Asia, the Simla Convention was a *fait accompli* between Britain and Tibet, whatever was the nature of the signature of either Plenipotentiary. In Lamb's finding, however, this

initialed text could not “become” a “binding agreement”. Lamb does not much notice the Anglo-Tibetan Declaration* and focusses his microscope on the initials of Henry McMahon, the British Plenipotentiary. Indeed McMahon affixed his initials and, while Lonchen Shatra the Tibetan Plenipotentiary affixed his full name, the Tibetan signing** was also described as initials, obviously to observe uniformity. In either case the initials were accompanied by the seal of the Plenipotentiary. Now initials with seal can be as good as signature with seal. The seal is the essence of such agreement. Thus the subtle distinction drawn between initials and signature is not of that consequence as Lamb holds. The words in the concluding article of the Simla Convention are relevant: “In token whereof the respective Plenipotentiaries have signed and sealed”. [Whatever the coinage “initialed” may mean, “to initial” means “to sign with initials” while “to sign” (a state paper) means “to put a seal upon” (it). Vide *Shorter Oxford English Dictionary on Historical Principles*, 1959 edn.]

Secondly, on the same date (3 July 1914) Britain and Tibet signed an agreement entitled Anglo-Tibet Trade Regulations. This agreement was a sequel to the Convention. Its preamble reads “Whereas by Article 7 of the Convention concluded between the Governments of Great Britain, China and Tibet on the third day of July 1914...” The word *concluded* is unambiguous and categorical while the mention of China was necessary under the declaration which kept the door open for China’s return. The Convention by Article 7 had cancelled the Tibet Trade Regulations of 1893 and 1908 and provided for a framing of fresh regulations between Britain and Tibet. Hence the Anglo-Tibet Trade Regulations of 1914. The basis of the 1914 Regulations is the Simla Convention (even date); in fact these Regulations were the corollary to the Convention. Now if, as Lamb’s novel finding indicates, the Simla Convention was not signed, these Trade Regulations had a defective preamble and had thus no valid basis. The evidence of all events between 1914 and 1947 (when independent India succeeded to Britain’s rights under the Simla Convention and the Trade Regulations), and more correctly till 1954 (when India made fresh agreement with China), militates against such novel finding about the Simla Convention.

Thirdly, Tibet all through considered the Convention as well as the Regulations as valid instruments of her foreign

policy. The Regulations stood testimony to Tibet's right to conclude a treaty without China's participation at any stage. This document carried besides the signature of Lonchen Shatra the seals of the three monasteries and the National Assembly; McMahon's full signature was accompanied by seal. In the opinion of Tibetan monk-officials the two documents, the Convention and the Regulations, were but two parts of one treaty and the signatures and seals appended to the Regulations covered fully both documents. The Tibetans, as much as the British, worked to enforce their rights under the two documents. The Dalai Lama corroborates the signing and conclusion of the Simla Convention thus: "the Chinese government refused to sign it; and so Tibet and Britain signed alone, with a separate declaration that China was debarred from any privileges under the agreements so long as she refused to sign it" (*My Land and My People*, Bombay 1962, p. 70).

Last, and certainly the most important, affirmation of signing comes from China and the People's Republic of China.

Lamb (p.51) "was surprised to find that no less than six publications, some of them the work of lawyers, state or imply that the Convention was signed on 3 July 1914 by the British and Tibetans". None of the authors of these books is a Chinese and Lamb seeks redress in a book "by two Chinese (but definitely non-Communist) writers", that is, Shen & Liu: *Tibet and Tibetans* (Stanford 1953). This book, as Lamb says, "does not mention that (i.e. the document) of July 3 at all". Indeed this book does not mention any uncomfortable fact like that of July 3. It is however not clear why Lamb does not notice in this connexion the book by another definitely non-Communist Chinese writer, that is, Li: *Tibet Today and Yesterday* (New York 1960). This book not only features in Select Bibliography of Lamb's Chatham House Essay but it also anticipates much of Lamb's arguments about the alleged imperfections of the Simla Convention. The author of this book (Li) "has faith in Asian nationalism but detests those who make all sorts of pretenses in the name of nationalism" and condemns all claims to Tibet's secession from "the multi-nationality country" (pp.xiii-xiv). Li speaks thus about the signing of the Simla Convention: "As the Chinese delegate had already made it clear that he was instructed

not to sign, the British and Tibetan delegates affixed their signatures on July 3, 1914" (pp.139-40).

Now from definitely non-Communist to definitely Communist sector of Chinese opinion. At the Sino-Indian boundary discussion the delegation of the People's Republic of China stated thus: "Premier Chou En-Lai and Chinese officials do not deny the fact that the then Tibet local representative signed the Simla Convention". (*Report of the Officials of the Governments of India and the People's Republic of China on the Boundary Question*, New Delhi 1961, p.CR-26, bottom para).

[In the Chinese view, however, this signature is "illegal" because "Tibet had no right to conclude treaties separately". The issue under consideration here does not need any discussion of the Chinese view of Tibet's title to sign treaties in 1914. Here I seek to prove the signing of the Convention and propose to discuss separately the political and legal implications of the fact of signing.]

So there is agreement between Britain, Tibet and China re: the fact of signing the Simla Convention. Lamb's contention based on "the initialed text" loses all force in the face of Chinese affirmation. An *amicus curiae* who witnesses a dispute cannot himself initiate a dispute on a point on which the parties are in agreement.

NOTES

*Text of the Anglo-Tibetan Declaration as recorded on page 140 of the Report of the International Commission of Jurists entitled *Tibet and the Chinese People's Republic* (Geneva 1960):

"We, the Plenipotentiaries of Great Britain and Thibet, hereby record the following declaration to the effect that we acknowledge the annexed convention as initialled to be binding on the Governments of Great Britain and Thibet, and we agree that so long as the Government of China withholds signature to the aforesaid convention she will be debarred from the enjoyment of all privileges accruing therefrom.

"In token whereof we have signed and sealed this declaration, two copies in English and two in Thibetan.

"Done at Simla this 3rd day of July, A. D. 1914, corresponding with the Thibetan date the 10th day of the 5th month of the Wood Tiger year.

A. Henry McMahon,
British Plenipotentiary

(Seal of the British Plenipotentiary.)

(Seal of the Dalai Lama.)

(Seal of the Lonchen Shatra.)

(Seal of the Drepung Monastery.)

(Seal of the Sera Monastery.)

(Seal of the Gaden Monastery.)

(Seal of the National Assembly.)"

(Signature of the Lonchen Shatra)

****Tibetan signature:** It is appropriate to point out that the Tibetans do not and cannot initial. Both their custom and script rule out initialing as known in the West. The Tibetan signs or not; for a Tibetan there is no third category between the two.

In affixing signature to a treaty or such state paper a Tibetan dignitary has to prefix in his own hand his lineage (monastic or lay) and his rank (and/or designation). In keeping with this tradition the Tibetan Plenipotentiary at the Simla Conference prefixed his signature with such details as he suffixed it with the seal.

The two maps (27 April 1914 and 3 July 1914) illustrating the boundaries bear the full signature of the Tibetan Plenipotentiary; the first bears the full signature of the Chinese Plenipotentiary also; the second bears the full signatures along with seals of both Tibetan and British Plenipotentiaries. (V. Photographic reproductions of the two maps in *Atlas of the Northern Frontier of India*, New Delhi: Ministry of External Affairs 1960).